



# House of Representatives

General Assembly

**File No. 320**

January Session, 2009

Substitute House Bill No. 5600

*House of Representatives, March 30, 2009*

The Committee on Human Services reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING ACCESS TO COMPREHENSIVE FACTUAL INFORMATION REGARDING LONG-TERM CARE FACILITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 19a-550 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2009*):

4 (b) There is established a patients' bill of rights for any person  
5 admitted as a patient to any nursing home facility or chronic disease  
6 hospital. The patients' bill of rights shall be implemented in accordance  
7 with the provisions of Sections 1919(b), 1919(c), 1919(c)(2),  
8 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security Act. The patients'  
9 bill of rights shall provide that each such patient: (1) Is fully informed,  
10 as evidenced by the patient's written acknowledgment, prior to or at  
11 the time of admission and during the patient's stay, [of] that the patient  
12 has received a written statement enumerating the rights set forth in  
13 this section and of all rules and regulations governing patient conduct  
14 and responsibilities; (2) is fully informed, prior to or at the time of

15 admission and during the patient's stay, of services available in the  
16 facility, of the staff to patient ratio for all units on all shifts, and of  
17 related charges including any charges for services not covered under  
18 Titles XVIII or XIX of the Social Security Act, or not covered by the  
19 basic per diem rate; (3) is entitled to choose the patient's own physician  
20 and is fully informed, by a physician, of the patient's medical condition  
21 unless medically contraindicated, as documented by the physician in  
22 the patient's medical record, and is afforded the opportunity to  
23 participate in the planning of the patient's medical treatment and to  
24 refuse to participate in experimental research; (4) in a residential care  
25 home or a chronic disease hospital is transferred from one room to  
26 another within the facility only for medical reasons, or for the patient's  
27 welfare or that of other patients, as documented in the patient's  
28 medical record and such record shall include documentation of action  
29 taken to minimize any disruptive effects of such transfer, except a  
30 patient who is a Medicaid recipient may be transferred from a private  
31 room to a nonprivate room, provided no patient may be involuntarily  
32 transferred from one room to another within the facility if (A) it is  
33 medically established that the move will subject the patient to a  
34 reasonable likelihood of serious physical injury or harm, or (B) the  
35 patient has a prior established medical history of psychiatric problems  
36 and there is psychiatric testimony that as a consequence of the  
37 proposed move there will be exacerbation of the psychiatric problem  
38 which would last over a significant period of time and require  
39 psychiatric intervention; and in the case of an involuntary transfer  
40 from one room to another within the facility, the patient and, if known,  
41 the patient's legally liable relative, guardian or conservator or a person  
42 designated by the patient in accordance with section 1-56r, is given at  
43 least thirty days' and no more than sixty days' written notice to ensure  
44 orderly transfer from one room to another within the facility, except  
45 where the health, safety or welfare of other patients is endangered or  
46 where immediate transfer from one room to another within the facility  
47 is necessitated by urgent medical need of the patient or where a patient  
48 has resided in the facility for less than thirty days, in which case notice  
49 shall be given as many days before the transfer as practicable; (5) is

50 encouraged and assisted, throughout the patient's period of stay, to  
51 exercise the patient's rights as a patient and as a citizen, and to this  
52 end, has the right to be fully informed about patients' rights by state or  
53 federally funded patient advocacy programs, and may voice  
54 grievances and recommend changes in policies and services to facility  
55 staff or to outside representatives of the patient's choice, free from  
56 restraint, interference, coercion, discrimination or reprisal; (6) shall  
57 have prompt efforts made by the facility to resolve grievances the  
58 patient may have, including those with respect to the behavior of other  
59 patients; (7) may manage the patient's personal financial affairs, and is  
60 given a quarterly accounting of financial transactions made on the  
61 patient's behalf; (8) is free from mental and physical abuse, corporal  
62 punishment, involuntary seclusion and any physical or chemical  
63 restraints imposed for purposes of discipline or convenience and not  
64 required to treat the patient's medical symptoms. Physical or chemical  
65 restraints may be imposed only to ensure the physical safety of the  
66 patient or other patients and only upon the written order of a  
67 physician that specifies the type of restraint and the duration and  
68 circumstances under which the restraints are to be used, except in  
69 emergencies until a specific order can be obtained; (9) is assured  
70 confidential treatment of the patient's personal and medical records,  
71 and may approve or refuse their release to any individual outside the  
72 facility, except in case of the patient's transfer to another health care  
73 institution or as required by law or third-party payment contract; (10)  
74 receives quality care and services with reasonable accommodation of  
75 individual needs and preferences, except where the health or safety of  
76 the individual would be endangered, [and] is treated with  
77 consideration, respect, and full recognition of the patient's dignity and  
78 individuality, including privacy in treatment and in care for the  
79 patient's personal needs, and is provided with a written statement,  
80 prior to or at the time of admission and during the patient's stay, that  
81 the facility utilizes the most appropriate and best care practices; (11) is  
82 not required to perform services for the facility that are not included  
83 for therapeutic purposes in the patient's plan of care; (12) may  
84 associate and communicate privately with persons of the patient's

85 choice, including other patients, send and receive the patient's  
86 personal mail unopened and make and receive telephone calls  
87 privately, unless medically contraindicated, as documented by the  
88 patient's physician in the patient's medical record, and receives  
89 adequate notice before the patient's room or roommate in the facility is  
90 changed; (13) is entitled to organize and participate in patient groups  
91 in the facility and to participate in social, religious and community  
92 activities that do not interfere with the rights of other patients, unless  
93 medically contraindicated, as documented by the patient's physician in  
94 the patient's medical records; (14) may retain and use the patient's  
95 personal clothing and possessions unless to do so would infringe upon  
96 rights of other patients or unless medically contraindicated, as  
97 documented by the patient's physician in the patient's medical record;  
98 (15) is assured privacy for visits by the patient's spouse or a person  
99 designated by the patient in accordance with section 1-56r and, if the  
100 patient is married and both the patient and the patient's spouse are  
101 inpatients in the facility, they are permitted to share a room, unless  
102 medically contraindicated, as documented by the attending physician  
103 in the medical record; (16) is fully informed of the availability of and  
104 may examine all current state, local and federal inspection reports and  
105 plans of correction, and is provided with a written statement, prior to  
106 or at the time of admission and during the patient's stay, reporting the  
107 facility's quality rating, as determined by the federal Centers for  
108 Medicare and Medicaid Services, and the facility's current state license  
109 status; (17) may organize, maintain and participate in a patient-run  
110 resident council, as a means of fostering communication among  
111 residents and between residents and staff, encouraging resident  
112 independence and addressing the basic rights of nursing home and  
113 chronic disease hospital patients and residents, free from  
114 administrative interference or reprisal; (18) is entitled to the opinion of  
115 two physicians concerning the need for surgery, except in an  
116 emergency situation, prior to such surgery being performed; (19) is  
117 entitled to have the patient's family or a person designated by the  
118 patient in accordance with section 1-56r meet in the facility with the  
119 families of other patients in the facility to the extent the facility has

120 existing meeting space available which meets applicable building and  
121 fire codes; (20) is entitled to file a complaint with the Department of  
122 Social Services and the Department of Public Health regarding patient  
123 abuse, neglect or misappropriation of patient property; (21) is entitled  
124 to have psychopharmacologic drugs administered only on orders of a  
125 physician and only as part of a written plan of care developed in  
126 accordance with Section 1919(b)(2) of the Social Security Act and  
127 designed to eliminate or modify the symptoms for which the drugs are  
128 prescribed and only if, at least annually, an independent external  
129 consultant reviews the appropriateness of the drug plan; (22) is  
130 entitled to be transferred or discharged from the facility only pursuant  
131 to section 19a-535 or section 19a-535b, as applicable; (23) is entitled to  
132 be treated equally with other patients with regard to transfer,  
133 discharge and the provision of all services regardless of the source of  
134 payment; (24) shall not be required to waive any rights to benefits  
135 under Medicare or Medicaid or to give oral or written assurance that  
136 the patient is not eligible for, or will not apply for benefits under  
137 Medicare or Medicaid; (25) is entitled to be provided information by  
138 the facility as to how to apply for Medicare or Medicaid benefits and  
139 how to receive refunds for previous payments covered by such  
140 benefits; (26) on or after October 1, 1990, shall not be required to give a  
141 third party guarantee of payment to the facility as a condition of  
142 admission to, or continued stay in, the facility; (27) in the case of an  
143 individual who is entitled to medical assistance, is entitled to have the  
144 facility not charge, solicit, accept or receive, in addition to any amount  
145 otherwise required to be paid under Medicaid, any gift, money,  
146 donation or other consideration as a precondition of admission or  
147 expediting the admission of the individual to the facility or as a  
148 requirement for the individual's continued stay in the facility; and (28)  
149 shall not be required to deposit the patient's personal funds in the  
150 facility.

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2009	19a-550(b)
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**AGE**      *Joint Favorable Subst. C/R*

HS

**HS**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Potential future minimal cost

**Municipal Impact:** None

**Explanation**

This bill adds additional informational requirements for nursing homes. These requirements will result in additional administrative costs to the homes. To the extent that a portion of these costs are passed on to the state through future Medicaid rate adjustments, the state may incur a potential minimal cost increase.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 5600*****AN ACT CONCERNING ACCESS TO COMPREHENSIVE FACTUAL INFORMATION REGARDING LONG-TERM CARE FACILITIES.*****SUMMARY:**

This bill gives patients in a nursing home or chronic disease hospital, the specific right prior to or at the time of admission and during their stay to (1) be fully informed of the facility's staff to patient ratio for all units on all shifts and (2) receive a written statement with certain information from the facility. The statement must (1) indicate that the facility uses "the most appropriate and best care practices" (which the bill does not define); (2) report the facility's federal Centers for Medicare and Medicaid (CMS) five-star quality rating, and (3) report the facility's current state licensure status.

The bill requires (1) the facilities to include these rights in the written "patients bill of rights" they give patients and (2) each patient to provide written acknowledgement of receipt of a written copy of the bill of rights prior to or at the time of admission and during his or her stay.

EFFECTIVE DATE: July 1, 2009

**BACKGROUND*****Nursing Home Patients' Bill of Rights***

Under state and federal law, nursing homes and chronic disease hospitals must fully inform patients about their rights and provide each patient with a copy of a document that lists these numerous rights (called the "patients' bill of rights"). Patients have rights to be, among other things:



1. informed about services available;
2. choose their own physician;
3. be fully informed about their medical condition;
4. participate in the planning of their care;
5. have their grievances resolved promptly;
6. manage their own financial affairs;
7. be free from abuse or restraint, have their personal and medical records treated confidentially;
8. receive reasonable accommodation for their individual needs and preferences;
9. associate and communicate privately with other people, have certain private visits; and
10. participate in patient groups and other organizations, and receive certain protections related to room transfers and discharges from the institution (CGS § 19a-550).

Federal nursing home law contains provisions generally similar to the state law concerning patients' rights and provisions on quality care, quality assessment and assurance, and written care plans (42 USC § 1396r (b) and (c)).

### ***CMS Five-Star Quality Rating System***

In 1998, CMS implemented "Nursing Home Compare," a national, online nursing home report card providing information on every Medicare and Medicaid certified nursing home in each state. In an attempt to make the website more user friendly, CMS added a new "five star" quality rating system in December 2008. Each nursing home is rated on a scale of one to five stars based on three components: health inspection results, 10 quality measures, and staffing levels. Each home also receives an overall quality rating.

**COMMITTEE ACTION**

Select Committee on Aging

Joint Favorable Substitute Change of Reference

Yea 11 Nay 0 (03/05/2009)

Human Services Committee

Joint Favorable

Yea 18 Nay 0 (03/12/2009)